

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

1. The petitioner's daughter is fifteen years old.
2. On or about March 3, 2010 his daughter's orthodontist submitted a Prior Authorization Form for comprehensive orthodontia to DVHA (then OVHA). The orthodontist checked that she met two of the "minor criteria" for orthodontic treatment. No other "functional impairment" or "special medical consideration" was noted in those places on the request form.

3. DVHA, on its review of the materials, found that the girl did not meet either of the checked minor criterion ("2 blocked bicuspid, per arch" and "traumatic deep bite impinging on palate"), and it sent the petitioner a notice of decision denying coverage on March 8, 2010. This decision was reviewed and affirmed by DVHA in a notice dated March 24, 2010.

4. At the status conference held on May 13, 2010, the hearing officer and the Department advised the petitioner to submit a statement from his daughter's orthodontist detailing his disagreement, if any, with DVHA's assessment of the minor criteria, and stating any other medical condition that might indicate the need for orthodonture.

5. At a status conference held on July 15, 2010 the Department reported that it had been contacted by the girl's orthodontist, and that he had essentially agreed with the Department's assessment. The Department then submitted the following note from the orthodontist, dated June 2, 2010:

Here is an updated request form. As I review this case I notice 3/3 are blocked, but the patient does not have 2 blocked cuspids per arch. She also has a deep overbite but it does not impinge on the palate-though it is darn close. 5/5-5/5 are missing.

(Patient) does have a Class II malocclusion with a deep overbite and crowding. I do not believe her case qualifies for funding however.

(Emphasis in original.)

6. Based on the above, it is found that the petitioner's daughter has not demonstrated that she meets any of the major or minor criteria (see *infra*), and that she has not sufficiently shown any other medical basis for dentures at this time.

ORDER

DVHA's decision is affirmed.

REASONS

States are required to provide dental services to Medicaid recipients under the age of twenty-one if certain criteria are met as part of the EPSDT requirements. Dental services are defined at 42 U.S.C. § 1396d(r)(3) to include services:

(B) which shall at a minimum include relief of pain and infections, restoration of teeth, and maintenance of dental health.

To meet EPSDT requirements, Vermont has adopted regulations found at M622 that state, in part:

M622.1 Definition

Medically necessary orthodontic treatment involves the use of one or more prosthetic devices to correct a severe malocclusion.

M622.4 Conditions for Coverage

To be considered medically necessary, the beneficiary's condition must have one major or two minor malocclusions according to diagnostic criteria adopted by the department's dental consultant or if otherwise necessary under EPSDT found at M100. (emphasis added)

The treating orthodontist or dentist completes a Prior Authorization Request Form that addresses the state's criteria. This form first asks for the following diagnostic information:

Major Criteria

Cleft palate
2 impacted cuspids

Severe Cranio-Facial Anomaly

Minor Criteria

1 impacted cuspid
2 blocked cuspids per arch
(deficient by at least 1/3
of needed space)
3 congenitally missing
teeth per arch (excluding
third molars)
Open bite 4+teeth, per
arch
Crowding per arch (10+mm)
Anterior crossbite
(3+teeth)
Posterior crossbite
(3+teeth)
Traumatic deep bite
impinging on palate
Overjet 8+mm (measured
from labial to labial)

Eligibility for comprehensive orthodontic treatment requires that the malocclusion be severe enough to meet a minimum of **1** major or **2** minor diagnostic criteria.

In the petitioner's case, as noted above, DVHA found that his daughter does not meet the criteria of either one major or two minor criteria, and it does not appear that the girl's orthodontist disagrees.

The petitioner has been advised that Medicaid coverage for orthodonture does not depend exclusively on these criteria. The form also asks whether there are other "functional impairments" or "special medical considerations". Under the regulations orthodontia is considered medically necessary when there is "a determination that a service is needed to achieve proper growth and development or prevent the worsening of a health condition".

Unfortunately, it cannot be concluded that the petitioner has presented sufficient evidence to show that orthodontia is medically necessary for his daughter. He has been advised, however, that he is free to reapply for coverage if and when any of his daughter's providers will document a medical need.

At this point, however, it is clear that the evidence submitted and the regulations support DVHA's position. Thus the Board is bound to affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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